

20 AUG 1979

MEMORANDUM FOR: General Counsel

FROM: Harry E. Fitzwater
Director of Personnel

SUBJECT: Requests from the Director, Equal Employment
Opportunity for Official Personnel Files

1. This memorandum requests your opinion as to the conditions under which I am to release Official Personnel Files to the Director, Equal Employment Opportunity (D/EEO). (U/AIUO)

2. By way of background, I am, of course, the custodian of the Official Personnel Files of the Central Intelligence Agency. The D/EEO and his grievance counselors utilize personnel records of this Agency in investigations of complaints. In order to maintain the confidentiality and privacy of Official Personnel Files in the best possible manner, we receive a request for each and every file by written memorandum from the D/EEO (see Tab A). (U/AIUO)

3. Attached under Tab B is Federal Personnel Manual (FPM) Supplement 990-1, Part 7i3, Equal Opportunity, which seems to be the basis for entitling the D/EEO to receive the Official Personnel File of the complainant. This particular section of the Office of Personnel Management's regulations deals with the broad subject of Equal Opportunity and the authorities of the investigator including the right of counselors to personnel records of the Agency without unwarranted invasion of privacy. (U/AIUO)

4. Some Agency managers, especially those in the Directorate of Operations, are concerned about the release of files on employees in their components. Their concern is not simply a matter of privacy but involves fitness reports especially which frequently contain sensitive information regarding overseas modus operandi, targets and sources. They, therefore, believe that only a minimum number of individuals should be exposed to files concerning their employees. (U/AIUO)

5. As noted above, the D/EEO obviously needs the complainant's file. Peripheral files concerning a given matter are my concern and that of other senior managers. For instance, if an individual claims discrimination as regards promotion, the D/EEO may request 10 or 15 files other than that of the complainant to determine, we assume, whether the rankings were conducted in such a way as to preclude discrimination against the individual who is the complainant. Thus, in many cases, the Office of Equal Employment Opportunity has a large number of files other than those of the complainants. I am concerned whether or not we are properly protecting the privacy of these employees and maintaining from a security standpoint a proper need-to-know stance. (U/AIUO)

6. Since this matter has just recently come to my attention and the O/EEO is limited to 21 days to process a grievance case, we must expedite our cooperation with EEO in helping to resolve this problem. I, therefore, would appreciate your attention to this matter as soon as possible and will be glad to discuss this further with you. (U/AIUO)

Harry E. Fitzwater

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Atts

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EA-D/Pers (17 August 1979)

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